

Service Date: June 30, 1998

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER of the Application of)	UTILITY DIVISION
U S WEST Communications, Inc. to)	DOCKET NO. D96.12.220
Restructure its Prices for Regulated)	
Telecommunications Service.)	ORDER NO. 5965b

POSTHEARING ORDER AND REQUEST FOR COMMENTS

Introduction and Background

1. U S WEST Communications, Inc. (U S WEST) filed an application on December 26, 1996 to restructure prices it is authorized to charge its Montana customers for some of its regulated telecommunications services. These services include local exchange service, toll service, access charges to interexchange carriers, and some related services. Although U S WEST has not requested an overall rate increase, rates for certain services would increase under the proposed application. For residential customers, U S WEST proposed an increase of \$4.00 per month for flat-rated access lines and \$2.00 per month for all measured service lines. U S WEST proposed to establish a single rate group for business exchange access lines, thereby lowering rates for some business customers; a restructure of message toll service (MTS) rates, lowering some toll rates and increasing others; and decreases in carrier access charges. On June 10, 1997, the Commission consolidated in this Docket U S WEST's tariff filing to increase the measured usage rate for Basic Public Access Line Service, Docket No. N97.5.85.

2. Intervenor in this action initially included AT&T Communications of the Mountain States, Inc. (AT&T), MCI Communications Corp., the Montana Telephone Association, Montana Independent Telecommunications Systems, the Montana Consumer Counsel (MCC), Touch America, Citizens Utilities Company, and Northwest Payphone Association (NWP). AT&T subsequently moved the Commission to withdraw from the proceedings; the motion was granted on February 24, 1998. Prior to withdrawing, AT&T was an active intervenor in this Docket, filing testimony and participating in discovery.

3. The Commission held a hearing on April 22 and April 23, 1998. The Commission considered a stipulation at the hearing which had been reached between U S WEST and MCC on behalf of the consuming public. In their stipulation, U S WEST and MCC agreed that the restructuring described therein would be just and reasonable and should be authorized by the Commission. U S WEST and MCC described the restructuring agreed to in the Stipulation as "a phase-in of the original U S WEST restructuring proposal, proportionately reduced so that the increase in flat rated residential local exchange rates, over the period of the phase-in, is limited to \$2.95 per month."

4. The stipulation, *inter alia*, would reduce the increase in residential local exchange service rates, restructure the toll rates from what was originally proposed, and also change the reduction in switched access rates. U S WEST and MCC agreed there should be no change in rates to customers under the Telephone Assistance Plan (TAP) and that other changes should be implemented in two steps (each revenue neutral). U S WEST also agreed not to propose any further increase in residential local exchange rates before the year 2000. The stipulation did not

address payphone issues; the Commission will decide these issues based on the evidence in the record.

5. Because the MCC and U S WEST had reached an agreement, the Commission granted in part a Motion in Limine filed by U S WEST requesting that all its witnesses not be required to be present for cross examination at the hearing. As a result, the issues were not explored as extensively as they might have been absent the stipulation. Most particularly, the testimony of MCC and U S WEST witnesses was not subject to cross examination by the opposing party. The Commission advised the parties at the hearing that it would hold public (satellite) hearings in several cities prior to deciding whether to approve the Stipulation. The Commission also issued extensive written questions about the Stipulation which the parties answered in written form as late filed exhibits.

6. After the hearing, Ronan Telephone Company (RTC) and its Consumer Advisory Committee (Committee) petitioned for late intervention on May 22, 1998. The Commission denied late intervention to both entities on May 27, 1998, but issued a notice instructing MCC and U S WEST to provide specific responses to the issues raised by RTC and the Committee. The Commission conducted satellite hearings in Missoula, Helena, Great Falls, and Ronan. On June 16, 1998, the Commission granted late intervention to the Committee pursuant to a petition to reconsider the action taken; a similar petition from RTC was denied.

7. The hearing in Ronan on June 1, 1998 was well attended and numerous individuals protested the agreement in the stipulation to raise MTS rates higher than what had been originally proposed. The Commission also received letters concerning the proposed increase in local measured service rates for business customers.

8. In a series of work sessions held during the week of June 15-19, 1998, the Commission considered the stipulation proposed by MCC and U S WEST, comments and letters received from interested persons, and the matters which had been noted by the Committee. On June 18, 1998, the Commission voted to reject the stipulation and to request additional comments.

Commission Decision

9. The Commission rejects the U S WEST/MCC Stipulation because it is not in the public interest. Although the Commission considers it good policy to align prices with costs and the stipulation attempts to do that, the increases proposed are substantial, particularly the MTS rates for short mileage bands. Moreover, the record is weak concerning some of the specific impacts that would result and does not sufficiently establish what U S WEST's costs really are.

10. The Commission tentatively concludes that any resolution of the issues in this proceeding should reduce or eliminate increases in residential and business measured service. By mitigating the residential rate increase in this manner, residential customers--particularly low income consumers--will have a more attractive option. Business measured service was not mentioned in the Stipulation. The increase in business measured service is substantial and, we believe, was not fully developed in the record.

11. The Commission also tentatively concludes that residential flat rates should not increase by \$2.95 per month as proposed by the Stipulation, but should be limited to no more than \$2.00 per month, to be implemented in part in 1998 and in part in 1999. We conclude that limiting the increases will reduce "rate shock" while taking a significant step towards aligning prices with costs.

12. The Commission will also address the proposed increase in short haul toll rates, which was part of the stipulated overall reduction in the proposed MTS rates and part of the initial filing, although to a lesser extent in the initial filing. The Commission requests comments on specific alternatives to the parties' proposal, including the possibility of a delayed implementation of MTS increases for customers of small independent companies for whom U S WEST is the designated intraLATA toll carrier.

13. A separate but related issue involves the ability of a customer to have two or more lines combining flat and measured service at the same location. During the hearing, U S WEST indicated its willingness to provide this if the Commission approved the Stipulation allowing it to rebalance rates.

14. The Commission is also interested in implementing other changes with this Docket. Despite the objections of several intervenors, the Commission allowed U S WEST to pursue its rebalancing of rates in this Docket without addressing U S WEST's revenue requirements. One of the reasons the Commission considered only cost of services and not revenue requirements in this proceeding was its reliance on U S WEST's representations that it would file a revenue requirements case within nine months. Seventeen months have passed and U S WEST has not filed a revenue requirements case and has made no further representations that it will do so. The Commission concludes that it is not acceptable to implement further and major rate rebalancing for U S WEST without looking at both cost of service and revenue requirements.

15. Although neither the rebalancing proposed in the original application nor that proposed as part of the Stipulation would have affected Lifeline customers, we believe the number of customers who subscribe to Lifeline is much smaller than the number of customers

who qualify for it under Montana law. Further, the penetration of measured residential service is also low. There are many customers who would be better off by choosing measured residential service rather than flat residential service. The low "take" rate for both of these services may be attributable to the lack of consumer education about them. The Commission is interested in seeing programs developed which will encourage customers to subscribe to measured service and which will automatically enroll qualifying subscribers in Lifeline.

16. The Commission invites comments on these tentative conclusions and any alternative resolutions which incorporate them. Although the Commission rejects the Stipulation reached between U S WEST and MCC, the Commission will entertain a revised agreement incorporated in a new Stipulation which meets the objectives stated above. The parties are encouraged to settle all issues among themselves and present further Stipulations for Commission review.

17. The Commission also invites comments concerning the procedure that should be followed if no further stipulations are presented for Commission consideration. Comments are requested on the following:

(1) Is it necessary that the Commission reopen the record for presentation of additional evidence, permit additional discovery, and schedule another technical hearing on the issues that were stipulated between U S WEST and MCC? If a party comments that it is, the comments should be fully supported and explained.

(2) Before withdrawing from this proceeding, AT&T through its witness Mr. Fischer, testified that there was a substantial revenue increase for U S WEST as a result of moving payphone investment from the regulated rate base. U S WEST's rebuttal through its

witness, Wayne Culp, disputed the *amount* of the increase but conceded the revenue increase existed (\$1.7 million). The Commission requests comments concerning whether this testimony should be considered in any resolution of the issues in this Docket. Specifically, the Commission is considering reducing the revenue requirement by \$1.7 million to reflect this change, which could be assigned to preserve MTS reductions.

Conclusions of Law

1. The Commission has authority to supervise, regulate and control public utilities. Section 69-3-102, MCA. U S WEST is a public utility offering regulated telecommunications services in the State of Montana. Section 69-3-101, MCA.

2. The Commission has authority to do all things necessary and convenient in the exercise of the powers granted to it by the Montana Legislature and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it. Section 69-3-103, MCA.

3. The Montana Public Service Commission is the state agency charged with regulating telecommunications carriers in Montana and properly exercises jurisdiction in this Docket pursuant to Title 69, Chapter 3, MCA.

4. Adequate public notice and an opportunity to be heard has been provided to all interested parties in this Docket, as required by the Montana Administrative Procedure Act, Title 2, Chapter 4, MCA.

5. The Commission on its own motion may reopen any proceeding after final submission when it has reason to believe that conditions of fact or law have so changed as to require, or that the public interest requires the reopening of such proceeding. The Commission

may limit the reopened hearing to matters alleged in the petition and proof thereof.

ARM 38.2.4805(4).

Order

THEREFORE, based on the foregoing, IT IS ORDERED that the Stipulation presented to the Commission by U S WEST and the Montana Consumer Counsel is rejected.

Interested parties may submit comments to the Commission as set forth herein no later than 14 days following service of this Order.

DONE AND DATED at Helena, Montana, this 23rd day of June, 1998, by a vote of 3-2.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

DAVE FISHER, Chairman, dissenting

NANCY MCCAFFREE, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner, dissenting

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.